

MARTHA A. KITCHEN
Claimant

LUCE PRESS CLIPPINGS, INC.
Respondent

AMERICAN HOME ASSURANCE COMPANY
Insurance Carrier

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ORDER

ISSUES

Respondent and its insurance carrier contend the Judge erred and allegedly exceeded his jurisdiction and authority by ordering the independent medical evaluation. Further, they contend the Judge erred by failing to terminate benefits because claimant has allegedly (1) reached maximum medical improvement and (2) failed to cooperate in obtaining a medical examination.

1. Did the Judge exceed his jurisdiction and authority?
2. Does the Board have the jurisdiction to review this interlocutory order?

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record compiled to date, the Board finds:

1. This appeal should be dismissed.
2. The Workers Compensation Act specifically grants the Division the authority to appoint neutral health care providers to evaluate injured workers.¹ Therefore, the Judge did not exceed his jurisdiction and authority by ordering the evaluation.
3. An order for an independent medical evaluation is an interlocutory order as it is neither a preliminary hearing award of benefits entered under the preliminary hearing statute² nor a final award.
4. The Appeals Board's jurisdiction to review appeals is governed by K.S.A. 1998 Supp. 44-534a and K.S.A. 1998 Supp. 44-551. Those statutes grant the Appeals Board the jurisdiction to review (1) certain preliminary hearing findings and (2) final orders and awards. Neither statute grants the Board the authority to review the interlocutory order now in issue.

WHEREFORE, the Appeals Board dismisses this appeal leaving the February 3, 1999 order in full force and effect.

IT IS SO ORDERED.

Dated this ____ day of April 1999.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Roger D. Fincher, Topeka, KS
Matthew S. Crowley, Topeka, KS
Brad E. Avery, Administrative Law Judge

¹ See K.S.A. 1998 Supp. 44-510e and K.S.A. 44-516.

² K.S.A. 1998 Supp. 44-534a.

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DOCKET NO. 228,213

Philip S. Harness, Director